

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID ANDREWS,  
Plaintiff,

v.

B. MARTINEZ, et al.,  
Defendants.

Case No. [17-cv-04363-YGR](#) (PR)

**ORDER GRANTING IN PART  
DEFENDANTS' MOTION RELATING TO  
INCORRECTLY-FILED DOCUMENT;  
DIRECTING CLERK TO FILE UNDER  
SEAL INCORRECTLY-FILED  
DOCUMENT; DIRECTING DEFENDANTS  
TO FILE REDACTED COPY; AND  
GRANTING PLAINTIFF'S REQUEST FOR  
COPIES OF DOCUMENTS**

This is a closed civil rights action. Plaintiff, a state prisoner proceeding *pro se* on appeal, has filed a request for copies of documents to comprise the excerpts of record on appeal pursuant to Circuit Rule 30-3. Dkt. 83. Also before the Court is Defendants' "Motion to Remove Incorrectly Filed Document and Replace With a Corrected Copy." Dkt. 82.

**I. DEFENDANTS' MOTION RELATING TO INCORRECTLY-FILED DOCUMENT**

Defendants filed a Notice of Motion and Motion for Summary Judgment on August 13, 2019, including a supporting declaration from E. Galvan (Dkt. 68-3) and supporting exhibits A and B (Dkt. 68-4). The motion for summary judgment was granted on September 27, 2019. Dkt. 74. Defendants have filed a motion to remove exhibit A to Galvan's declaration (Dkt. 68-4), which inadvertently included personally identifying information covered by Federal Rules of Civil Procedure 5.2, and to replace it with a corrected copy of the exhibit that redacts the personally identifying information. Plaintiff opposes Defendants' motion. Dkt. 82.

The Court has read and considered Defendants' request and the corrected documents, as well as Plaintiff's opposition, and finds that good cause exists to GRANT in part and DENY in part the request. As a preliminary matter, the Court notes that this matter is currently being appealed in the Ninth Circuit. In addition, the Court points out that Dkt. 68-4 to Galvan's declaration contains *both* exhibits A and B. Thus, the Court DENIES the request to *remove* Dkt. 68-4, which includes the incorrectly-filed exhibit A. Instead, the Court construes Defendants' request as a motion for administrative relief to file the incorrectly-filed exhibit A under seal, and it

GRANTS such a request. The Court also GRANTS Defendants' request to file a redacted version of the incorrectly-filed exhibit A. The Clerk of the Court and Defendants shall follow the instructions below:

- 1) The Clerk is instructed to maintain under seal Dkt. 68-4, which includes exhibits A and B attached to Galvan's declaration in support of Defendants' motion for summary judgment. The foregoing material shall be maintained under seal and *not* entered individually on the docket until the conclusion of this case and any appellate proceedings, after which time they should be returned to Defendants upon timely request.
- 2) Within **fourteen (14) days** of this Order, Defendants shall separately e-file a copy of the redacted version of exhibit A along with a copy of exhibit B (identical to the previously-filed copy in dkt. 68-4).
- 3) The Clerk shall then link the newly e-filed versions of exhibits A (redacted) and B to Galvan's declaration (dkt. 68-3).

## II. PLAINTIFF'S REQUEST FOR COPIES OF DOCUMENTS

As mentioned above, Plaintiff has filed a request for copies of documents to comprise the excerpts of record on appeal pursuant to Circuit Rule 30-3. Dkt. 83. Although Circuit 30-1.2 provides that appellants and appellees proceeding without counsel need not file excerpts of record on appeal, Circuit 30-3 provides that in cases involving appeals by prisoners proceeding without counsel, "the clerk of the district court shall, within 21 days from the receipt of the prisoner's written request, forward to the prisoner copies of the documents to comprise the excerpts of record."

Pursuant to Circuit Rule 30-3, the Clerk is instructed to forward to Plaintiff, within **fourteen (14) days** of this Order, copies of the following requested documents: (1) Request for the Judge's Standing Orders (dkt. 13); (2) Clerk's Letter to California Training Facility ("CTF") Litigation Coordinator re Service Upon Defendants (dkt. 18); (3) Clerk's Letter to CTF Litigation Coordinator re service upon Defendants Hatton, Dzioba, Melendrez (dkt. 33); (4) Letter from CTF Litigation Coordinator re Defendant Warden S. Hatton at SVSP (dkt. 36); (5) Clerk's Letter to Salinas Valley State Prison Litigation Coordinator re service upon Defendant S. Hatton (dkt. 38);

(6) Answer to Amended Complaint (dkt. 41); (7) Plaintiff's Declaration in Support of His Motion for Summary Judgment (dkt. 46-1); (8) Plaintiff's Separate Statement of Uncontroverted Facts in Support of His Motion for Summary Judgment (dkt. 57); (9) Plaintiff's Separate Statement of Uncontroverted Facts in Support of His Opposition (dkt. 72-2); and (10) Plaintiff's Opposition to Defendants' Motion to Remove Incorrectly Filed Document and Replace with a Corrected Copy (dkt. 83 at 1-4) as well as His Declaration and the Exhibits in Support of His Opposition (dkt. 83 at 5-12).

The Clerk is instructed to serve a copy of this Order on the parties and the Ninth Circuit.

This Order terminates Docket Nos. 80 and 83.

IT IS SO ORDERED.

Dated: 11/16/2020

  
YVONNE GONZALEZ ROGERS  
United States District Judge

cc:Copy emailed to USCA